

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UMAR ALLI,

Plaintiff,

-against-

SECURITY OFFICER PEDLAR, *et al.*,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 4/24/15

ORDER

14-CV-10257 (RA) (JLC)

JAMES L. COTT, United States Magistrate Judge.

Plaintiff, proceeding *pro se*, is currently incarcerated at the Clinton Correctional Facility.¹ Plaintiff alleges that in February 2012, staff at the George R. Verno Center on Rikers Island physically and sexually assaulted him and denied him medical treatment and disciplinary due process. Named as Defendants are Correctional Health Services/Prison Health Services; Department of Correction (“DOC”) Security Officers Pedlar, Bravo, Almazar, and Buntton; Security Captain Beharri; Correction Officers Spears, Rohr, Fluker, and Wong; DOC employees Rose Agro, Kathleen Mulvey, Dora Schriro, Florence Finkle, and Lewis Finkelman; the City of New York; and Board of Correction (“BOC”) members Hildy J. Simmons, Michael J. Regan, Cathy Potler, Richard T. Wolf, and Kenneth T. Armstead. Plaintiff also named fourteen Doe defendants.

By order dated March 6, 2015, Judge Abrams: (1) directed that a summons be issued as to the BOC defendants (Simmons, Regan, Potler, Wolf, and Armstead) and directed Plaintiff to serve them as required by Federal Rule of Civil Procedure 4;² (2) requested a waiver of service

¹ Plaintiff paid the filing fee to bring this action.

² The BOC Defendants and the Correctional Health Services/Prison Health Services are not subject to the waiver of service agreement that the Court has with DOC. Accordingly, those Defendants must be served with process as set forth under Federal Rule of Civil Procedure 4.

from the DOC defendants (Pedlar, Bravo, Almazar, Buntton, Beharri, Spears, Rohr, Fluker, Wong, Agro, Mulvey, Schriro, Finkle, Finkelman, and the City of New York); and (3) issued a *Valentin* order as to the Doe defendants.

DOC waived service on behalf of Schriro, Pedlar, Bravo, Fluker, and Wong. (ECF Doc. 9.) DOC could not identify Almazar, Spears, and Rohr and declined to waive service for them.³ (ECF Docs. 10-11.) DOC gave no indication either way as to Buntton, Beharri, Agro, Mulvey, Finkle, Finkelman, or the City of New York.

Under *Valentin v. Dinkins*, a *pro se* litigant is entitled to assistance from the district court in identifying a defendant. 121 F.3d 72, 76 (2d Cir. 1997). Plaintiff's complaint appears to supply sufficient information to permit DOC to identify Almazar, Spears, and Rohr. It is therefore ordered that the New York City Law Department (through Assistant Corporation Counsel Daniel G. Saavedra, who has appeared for the City of New York), which is the attorney for and agent of DOC, shall ascertain the full identities of Security Officer Almazar and Correction Officers Spears and Rohr and provide that information to the Court within 30 days of the date of this Order. The Court will then issue an order requesting that those Defendants waive service.

The Court requests that Defendants Buntton, Beharri, Agro, Mulvey, Finkle, and Finkelman waive service of summons.

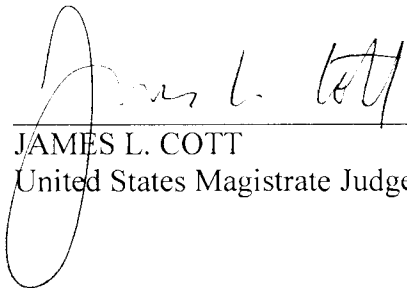
Because Plaintiff paid the filing fee (as opposed to proceeding *in forma pauperis*), he is not entitled to have the United States Marshals Service execute service on his behalf. On March 10, 2015, the Clerk's Office mailed to Plaintiff a service package that included, among other documents, summonses, copies of the complaint, and instructions for executing service on the BOC Defendants.

³ DOC also declined to waive service on behalf of Simmons, Potler, Wolf, and Armstead, although Judge Abrams's order did not request waiver from these BOC defendants. (ECF Docs. 6, 10.)

Finally, the Clerk of Court is directed to issue a summons as to Correctional Health Services/Prison Health Services. Plaintiff is directed to execute service on Correctional Health Services/Prison Health Services and the BOC Defendants (Simmons, Regan, Potler, Wolf, and Armstead) within 120 days of the issuance of the summons as to each defendant.

SO ORDERED.

Dated: April 24, 2015
New York, New York



JAMES L. COTT
United States Magistrate Judge

A copy of this Order has been mailed to the following:

Umar Alli
12A1086
Clinton Correctional Facility
P.O. Box 2000
Dannemora, NY 12929